# Natural (Native) Born Citizen: Solved



Article II, Section 1, Clause 5 states:

"No person except a natural born Citizen, or a Citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the Office of President."

Pardoning the confusion of terms, a natural born Citizen was a native born citizen, born in the United States of America, under the *Articles of Confederation* or the United States of America, under the *Constitution of the United States*, while a Citizen of the United States at the time of the adoption of the Constitution, was a person who was naturalized under the laws then existing under the *Articles of Confederation*.

A native born citizen then was one who was born with the territory of a government (country) and subject to its jurisdiction. In this case, the United States of America, under the *Articles of Confederation* or the United States of America, under the *Constitution of the United States*.

This type of citizenship was based on *jus soli*, that is one who is born on the soil of the country of which he is a citizen.

Through the years following the adoption of the *Constitution of the United States*, a new class of citizens naturalized under the laws under the *Constitution of the United States* came into being. Being citizens of the United States, they were under the Constitution ineligible to be President of the United States of America. However, their offspring, that is their children were not in the same circumstances. As long as they were born in the United States of America, they could become President of the United States of America under the Constitution. This is because they were born to parents who were themselves citizens of the United States, even though they were ineligible to be President of the United States of America. **[Footnote 1]**

This type of citizenship was based on *jus sanguinis*, that is what his or her parents were, also known as right of blood.

So after the adoption of the Constitution of the United States, and the passing of the last citizen of the United States who was a citizen of the United States at the time of the adoption of the *Constitution of the United States*, the only citizens eligible to be President of the United States of America, were natural born citizens, that is native born citizens who citizenship was based on *jus soli* (soil) or *jus sanguinis* (blood).

The preamble to the *Constitution of the United States* proclaims:

"We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promoted the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States OF AMERICA."

"The People of the United States" were the people of the several States:

". . . Looking at the Constitution itself we find that it was ordained and established by ***'the people of the United States***,' and then going further back, we find that these were the people of the several States that had before dissolved the political bands which connected them with Great Britain, and assumed a separate and equal station among the powers of the earth, and that had by Articles of Confederation and Perpetual Union, in which they took the name of 'the United States OF AMERICA,' entered in to a firm league of friendship with each other for their common defence, the security of their liberties and their mutual and general welfare, binding themselves to assist each other against all force offered to or attack made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever." Minor v. Happersett: 88 U.S. 162, 166 (1874).

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The People of the several States, or "the people of the different States in this Union, (were) the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, . . . entitled to all privileges and immunities of free citizens in the several States." Article IV, Articles of Confederation.

Under the *Articles of Confederation*, the people of the several States, being free inhabitants of a different State, became under the *Constitution of the United States*, the people of the United States, being citizens of an individual State; to wit:

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." Article IV Section 2 Clause 1 Constitution of the United States.

"The People of the United States" were too citizens of the United States:

"To determine, then, who were citizens of the United States before the adoption of the [14th] amendment it is necessary to ascertain what persons originally associated themselves together to form the nation, and what were afterwards

admitted to membership. Looking at the Constitution itself we find that it was ordained and established by '***the people of the United States***.' " Minor v. Happersett: 88 U.S. 162, 166 (1874).

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Therefore, the People of the United States, being citizens of an individual State, were also citizens of the United States. Or, in other words, a person born in the United States of America; in a different state, before the adoption of the *Constitution of the United States* and under the *Articles of Confederation*, became under the adoption of the *Constitution of the United States*, in the United States of America, a citizen of a State and also a citizen of the United States.

Thus, a natural (native) born citizen under Article II, Section 1, Clause 5 was a person born in the United States of America, in an individual State.

After the adoption of the Constitution, one born in the United States of America; in an individual State, was a citizen of a State, first, and then a citizen of the United States. **[Footnote 2]** A person naturalized under the laws of the United States, under the *Constitution of the United States*, however, was a citizen of the United States, first, and then a citizen of a State he or she was domiciled in. *Gassies v. Baloon*, 31 U.S. (6 Peters) 761 (1832).

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Therefore, a natural (native) born citizen was a citizen of a State, first, and then a citizen of the United States, entitled under Article IV, Section 2, Clause 1 of the Constitution to "privileges and immunities of citizens in the several States." A naturalized citizen was a citizen of the United States, first, and then a citizen of a State, entitled under Article IV, Section 2, Clause 1 of the Constitution to "privileges and immunities of citizens in the several States." The only difference between them, before the Fourteenth Amendment, was that a natural (native) born citizen could be President of the United States of America whereas a naturalized citizen could not be President of the United States of America.

Did the Fourteenth Amendment change this?

Since the adoption of the Fourteenth Amendment and the *Slaughterhouse Cases*, there are now two citizens in the country of United States; a citizen of the United States, under Section 1, Clause 1 of the Fourteenth Amendment, and a citizen of a

State who is not a citizen of the United States, under Article IV, Section 2, Clause 1 of the Constitution of the United States of America. **[Footnote 3]** The following cases on diversity of citizenship show that there is a citizen of the United States, and a citizen of a State who is not a citizen of the United States:

"The petition avers, that the plaintiff, Richard Raynal Keene, is a citizen of the state of Maryland; and that James Brown, the defendant, is a citizen or resident of the state of Louisiana, holding his fixed and permanent domicil in the parish of St. Charles. The petition, then, does not aver positively, that the defendant is a citizen of the state of Louisiana, but in the alternative, that he is a citizen or a resident. Consistently with this averment, he may be either.

. . . A citizen of the United States may become a citizen of that state in which he has a fixed and permanent domicil; ***but the petition DOES NOT AVER that the plaintiff is a citizen of the United States***. . . .

The decisions of this court require, that the averment of jurisdiction shall be positive, and that the declaration shall state expressly the fact on which jurisdiction depends. It is not sufficient that jurisdiction may be inferred argumentatively from its averments.

The answer of James Brown asserts, that both plaintiff and defendant are citizens of the State of Louisiana.

Without indicating any opinion on the question, whether any admission in the plea can cure an insufficient allegation of jurisdiction in the declaration, we are all of opinion that this answer does not cure the defect of the petition. If the averment of the answer may be looked into, the whole averment must be taken together. It is that both plaintiff and defendant are citizens of Louisiana." Brown v. Keene: 33 U.S. (Peters 8) 112, at 115 thru 116 (1834).

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"*Syllabus*:

The facts, which involved the sufficiency of averments and proof of diverse citizenship to maintain the jurisdiction of the United States Circuit Court, are stated in the opinion of the court.

*Opinion*:

We come to the contention that the citizenship of Edwards was not averred in the complaint or shown by the record, and hence jurisdiction did not appear.

In answering the question, whether the Circuit Court had jurisdiction of the controversy, we must put ourselves in the place of the Circuit Court of Appeals, and decide the question with reference to the transcript of record in that court.

Had the transcript shown nothing more as to the status of Edwards than the averment of the complaint that he was a 'resident of the State of Delaware,' as such an averment would not necessarily have imported that Edwards was a citizen of Delaware, a negative answer would have been impelled by prior decisions. *Mexican Central Ry. Co. v. Duthie,* 189 U.S. 76; *Horne v. George H. Hammond Co.*, 155 U.S. 393; *Denny v. Pironi*, 141 U.S. 121; *Robertson v. Cease*, 97 U.S. 646. The whole record, however, may be looked to, for the purpose of curing a defective averment of citizenship, where jurisdiction in a Federal court is asserted to depend upon diversity of citizenship, and if the requisite citizenship, is anywhere expressly averred in the record, or facts are therein stated which in legal intendment constitute such allegation, that is sufficient. *Horne v. George H. Hammond Co*., supra and cases cited.

As this is an action at law, we are bound to assume that the testimony of the plaintiff contained in the certificate of the Circuit Court of Appeals, and recited to have been given on the trial, was preserved in a bill of exceptions, which formed part of the transcript of record filed in the Circuit Court of Appeals. Being a part of the record, and proper to be resorted to in settling a question of the character of that now under consideration, *Robertson v. Cease*, 97 U.S. 648, we come to ascertain what is established by the uncontradicted evidence referred to.

In the first place, it shows that Edwards, prior to his employment on the New York Sun and the New Haven Palladium, was legally domiciled in the State of Delaware. Next, it demonstrates that he had no intention to abandon such domicil, for he testified under oath as follows: 'One of the reasons I left the New Haven Palladium was, it was too far away from home. I lived in Delaware, and I had to go back and forth. My family are over in Delaware.' Now, it is elementary that, to effect a change of one's legal domicil, two things are indispensable: First, residence in a new domicil, and, second, the intention to remain there. The change cannot be made, except facto et animo. Both are alike necessary. Either without the other is insufficient. Mere absence from a fixed home, however long continued, cannot work the change. *Mitchell v. United States*, 21 Wall. 350.

As Delaware must, then, be held to have been the legal domicil of Edwards at the time he commenced this action, ***had it appeared that he was a citizen of the United States, it would have resulted, by operation of the Fourteenth Amendment, that Edwards was also a citizen of the State of Delaware***. *Anderson*

*v. Watt*, 138 U.S. 694. ***Be this as it may, however, Delaware being the legal domicil of Edwards, it was impossible for him to have been a citizen of another State, District, or Territory, and he must then have been either a citizen of Delaware or a citizen or subject of a foreign State. In either of these contingencies, the Circuit Court would have had jurisdiction over the controversy***. But, in the light of the testimony, we are satisfied that the averment in the complaint, that Edwards was a resident 'of' the State of Delaware, was intended to mean, and, reasonably construed, must be interpreted as averring, that ***the plaintiff was a citizen of the State of Delaware***. *Jones v. Andrews*, 10 Wall. 327, 331; *Express Company v. Kountze*, 8 Wall. 342." Sun Printing & Publishing Association v. Edwards: 194 U.S. 377, at 381 thru 383 (1904).

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"The bill filed in the Circuit Court by the ***plaintiff, McQuesten, alleged her to be 'a citizen of the United States and of the State of Massachusetts***, and residing at Turner Falls in said State,' ***while the defendants Steigleder and wife were alleged to be 'citizens of the State of Washington***, and residing at the city of Seattle in said State.' *Statement of the Case*, Steigleder v. McQuesten: 198 U.S. 141 (1905). {After the Fourteenth Amendment}

"***The averment in the bill that the parties were citizens of different States was sufficient to make a prima facie case of jurisdiction so far as it depended on citizenship***.' *Opinion*, Steigleder v. McQuesten: 198 U.S. 141, at 142 (1905). {After the Fourteenth Amendment}

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A citizen of the United States is no longer a citizen of the Union; that is, the United States of America, but now is a citizen of the United States (Fourteenth Amendment), that is, a citizen of the territories and possessions of the United States, including the District of Columbia as well as federal enclaves with the several States. **[Footnote 5]** As such one who is a citizen of the United States is one who is not born in the United States of America; that is, in an individual State of the Union. A citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, is still one who is still born in an individual State of the Union. **[Footnote 6]**

Thus, a citizen of the United States cannot become President of the United States of America, since he or she is not born in the United States of America; that is, in an individual State of the Union. Article II, Section 1, Clause 5 still applies to one who is a citizen of a State; that is, one who is born in an individual State of the Union.

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**Footnotes:**

**1.** Article II, Section 1, Clause 1 of the Constitution of the United States reads:

"The executive Power shall be vested in a President of the United States *of America*."

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**2.** "It has been suggested that the bill contains a prayer that, if the relief sought cannot be had against Andrew Johnson, as President, it may be granted against Andrew Johnson as a citizen of Tennessee. But it is plain that relief as against the execution of an act of Congress by Andrew Johnson is relief against its execution by the President. A bill praying an injunction against the execution of an act of Congress by the incumbent of the presidential office cannot be received, whether it describes him as ***President or as a citizen of a State***." State of Mississippi v. Johnson: 71 U.S. 475, at 501 (1866).

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"No Person shall be a Representatives who shall not have attained to the Age of twenty five Years, and been seven Years a ***Citizen of the United States***." Article I, Section 2, Clause 2 Constitution of the United States of America.

"No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a ***Citizen of the United States***." Article I, Section 3, Clause 3 Constitution of the United States of America.

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**3.** A citizen of the United States is recognized in Section 1, Clause 1 of the Fourteenth Amendment. A citizen of a State who is not a citizen of the United States is recognized at Article IV, Section 2, Clause 1 of the Constitution of the United States of America:

" . . . There is no inherent right in a citizen to thus sell intoxicating liquors by retail. It is not a privilege of a ***citizen of the State or of a citizen of the United States***." Crowley v. Christensen: 137 U.S. 86, at 91 (1890).

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"Another objection to the act is that it is in violation of section 2, art. 4, of the constitution of the United States, and of the fourteenth amendment, in that this act discriminates both as to persons and products. Section 2, art. 4, declares that the citizens of each state shall be entitled to all the privileges and immunities of the citizens of the several states; and the fourteenth amendment declares that no state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States. But we have seen that the supreme court, in *Crowley v. Christensen*, 137 U.S. 91, 11 Sup. Ct. Rep. 15, has declared that there is no inherent right in a citizen to sell intoxicating liquors by retail. It is not a privilege of ***a citizen of a state or of a citizen of the United States***." Cantini v. Tillman: 54 Fed. Rep. 969, at 973 (1893). **[Footnote 4]**

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**4.** A citizen of a State who is not a citizen of the United States is also a citizen of the several States under Article IV, Section 2, Clause 1 of the Constitution. See my work "Two Distinct State Citizens For Purposes Of Diversity Of Citizenship."

**5.** See my work "Blunders of the Supreme Court of the United States, Part 3"; where I show that the political jurisdiction (complete jurisdiction) of the United States extends **ONLY** to the District of Columbia, the territories and possessions of the United States, and federal enclaves within the several States of the Union. Thus, a citizen of the United States, under Section 1 of the Fourteenth Amendment, is one who is born in the United States, not the United States of America; that is, in an individual State of the Union.

In this work I also show that an individual State also has political jurisdiction. Thus, one who is born in an individual State is a citizen of that State, and not a citizen of the United States:

"The language of the Fourteenth Amendment declaring two kinds of citizenship is discriminating. It is: 'All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.' While it thus establishes national citizenship from the mere circumstance of birth within the territory and jurisdiction of the United States, ***birth within a state does not establish citizenship thereof***. State citizenship is ephemeral. It results only from residence and is gained or lost therewith." Edwards v. People of the State of California: 314 U.S. 160, 183 (*concurring opinion of Jackson*) (1941).

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**6.** A citizen of a State was a natural (native) born citizen before the adoption of the Fourteenth Amendment, and still is after its adoption:

(Before the Fourteenth Amendment)

"It appears that the plaintiff in error, though ***a native-born citizen of Louisiana***, was married in the State of Mississippi, while under age, with the consent of her guardian, to a citizen of the latter State, and that their domicile, during the duration of their marriage, was in Mississippi." Conner v. Elliott: 59 U.S. (Howard 18) 591, at 592 (1855).

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(After the Fourteenth Amendment)

"Joseph A. Iasigi, ***a native born citizen of Massachusetts***, was arrested, February 14, 1897, on a warrant issued by one of the city magistrates of the city of New York, as a fugitive from the justice of the State of Massachusetts." Iasigi v. Van De Carr: 166 U.S. 391, at 392 (1897).

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